



H.R. 3121 - The Flood Insurance Reform and Modernization Act of 2007

EXECUTIVE SUMMARY

Representative Maxine Waters (D-CA) introduced the Flood Insurance Reform and Modernization Act of 2007 (H.R. 3121) on June 19, 2007. The bill, as amended, was approved by the Financial Services Committee on July 26, 2007, by a vote of 38 to 29. It will be considered on the floor under a structured rule on September 27, 2007.

H.R. 3121 reauthorizes the National Flood Insurance Program (NFIP) for an additional five years. The bill includes a number of important reforms incorporated into the bipartisan bill that passed the House last Congress (H.R. 4973). The bill, however, significantly expands the NFIP by mandating it offer windstorm coverage.

Republicans on the Financial Services Committee and the Administration strongly oppose this expansion because it would displace the private market, expose taxpayers to significant financial risk, and overburden a program that is nearly \$18 billion in debt.

The Congressional Budget Office estimates that the bill would increase direct spending by \$725 million in 2009 and increase discretionary spending by approximately \$1.8 billion during the 2008-2012 period.

FLOOR SITUATION

H.R. 3121 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Republican Member of the Financial Services Committee.
- Waives all points of order against consideration of the bill and the amendments except those arising under clause 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Financial Services Committee, modified by the self-enacting amendment printed in Part A of the Rules Committee report, shall be considered as adopted in the House and in the Committee of the Whole. The bill as amended shall be considered as an original bill for the purposes of further amendment.
- Makes in order only those amendments printed in Part B of the Rules Committee report.

- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

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The bill is expected to be considered on the floor on September 27, 2007.

SUMMARY

H.R. 3121 reauthorizes the National Flood Insurance Program (NFIP) for an additional five years. The bill reforms the program in a number of ways, and it also includes an expansion into wind insurance.

Multi-peril Coverage for Flood and Windstorm: The bill expands NFIP to include coverage for windstorm damage.

Note: According to the Republican Views section of the Committee Report, “it would be ill-advised to force the NFIP to take on this new risk, as it could expose taxpayers to further loss and could unnecessarily interfere with the functioning of the private wind insurance market.” During the Financial Services Committee Mark-up, Republicans offered an amendment to remove the requirement for NFIP to offer wind insurance, replacing it with a GAO study of the feasibility and impact of NFIP providing wind insurance. This amendment was rejected by the majority party.

Borrowing Authority: The bill increases the NFIP’s borrowing authority from \$20.775 billion to \$21.5 billion.

Note: The NFIP currently owes the Treasury approximately \$18 billion. This debt is a result of the significant damages caused by the 2005 hurricane season. CBO estimates this increase in borrowing authority as increasing direct spending by \$725 million in 2009. To get around this PAYGO problem, the self-enacting amendment included in the rule would strike this provision.

Pre-Flood Insurance Rate Maps (Pre-FIRM) Nonresidential Properties and Non-primary Residences: Currently, Pre-FIRM structures pay discounted premium rates. The bill phases-in the actuarial rates for nonresidential properties and non-primary residences (i.e. vacation homes) that were built prior to implementation of the NFIP. This section also caps annual rate increases at 25% for non-primary residences and 20% for nonresidential properties.

Enforcement: H.R. 3121 increases the fines on lenders that fail to enforce mandatory flood insurance purchase requirements from \$350 to \$2,000 per incident. It also increases the maximum yearly penalty total from \$100,000 to \$1 million, with some exceptions.

Maximum Coverage Limits: The bill increases the maximum coverage limits for flood insurance policies for residences (from \$250,000 to \$335,000), residential contents (from \$100,000 to \$135,000), nonresidential properties (from \$500,000 to \$670,000), and nonresidential contents (from \$500,000 to \$670,000).

Premium Increase: This bill would increase the annual limitation on premium increases from 10 to 15 percent.

FEMA Participation in Disaster Claims Institution: The bill requires FEMA, if requested by a state insurance commissioner, to participate in a disaster claims mediation program.

Note: The Administration has raised constitutional concerns with this provision because it gives state officials the authority to compel Federal officials to participate into a State-sponsored mediation.

Flood Insurance Outreach: H.R. 3121 would create a new FEMA grant program that provides funding for local governments to conduct outreach activities to educate people regarding flood risks and encourage them to purchase flood insurance. It authorizes \$50 million for each fiscal year from 2008 to 2012.

Flood Mitigation Assistance: The bill adds demolition and rebuilding to the list of coverable activities.

Flood Maps and Elevation Modernization: The bill requires flood maps to be updated and maintained based on a 500-year floodplain. In carrying out this update, priority must be given to the coastal areas affected by Hurricanes Katrina and Rita. It authorizes \$400 million for each fiscal year from 2008 to 2013.

The bill also reestablishes the Technical Mapping Advisory Council to assist FEMA with flood map modernization. Membership would include the Army Corps of Engineers, local or regional flood agencies, State geographic information coordinators, flood insurance servicing companies, and real estate professionals, among others.

Additional FEMA Staff: H.R. 3121 authorizes such sums as are necessary for hiring additional FEMA staff to carry out the provisions of the bill.

Extension of Deadline for Filing Proof of Loss: The bill changes the deadline for filing a claim from 60 days to 180 days.

Reporting Requirements: The bill requires a number of reports and studies, including:

- GAO study on the effects of extending the mandatory flood insurance purchase requirement to all properties located in a flood hazard zone, whether or not the mortgage is federally-backed. The GAO would also be required to study coverage for pre-FIRM properties and the effects of extending the mandatory purchase requirement to properties protected by dams and levies.
- FEMA report on its plan to repay all funds borrowed within 10 years
- Annual FEMA report on financial status of the NFIP
- FEMA report on its flood insurance outreach efforts
- GAO study on ways to increase flood insurance program usage by low-income families
- FEMA report on the inclusion of building codes in floodplain management criteria
- FEMA report on the economic impact of charging actuarially-based premiums for Pre-FIRM structures

BACKGROUND

The National Flood Insurance Program (NFIP) was established in 1968 to reduce the risk of catastrophic flood damage through floodplain management, improve risk assessment through flood mapping, and promote flood insurance coverage and construction standards to guard against future damages. It is administered by FEMA.

NFIP currently provides coverage to more than 5 million people. Since the 2005 hurricane season, the NFIP has accumulated approximately \$18 billion in debt to cover its claims, leading the General Accounting Office to include it in its list of federal programs highly vulnerable “to fraud, waste, abuse, and mismanagement.”

ADDITIONAL INFORMATION

The Administration issued a veto-threat of the bill in its current form. “The Administration strongly opposes the expansion of H.R. 3121 to provide coverage for new risks, as this bill does for windstorm damage. Shifting liabilities for windstorm damage from the private sector to the NFIP would be fiscally irresponsible.” ([Statement of Administration Policy: HR 3121](#), 9/26/2007)

“While the Minority supports the vast majority of the provisions of H.R. 3121—which are similar to the bipartisan flood insurance reform bill introduced earlier this year (H.R. 1682), and the bipartisan bill that overwhelmingly passed the House last Congress (H.R. 4973)—the inclusion of wind would likely exacerbate the NFIP’s administrative problems.” (Republican Views Section of the Committee Report, 9/24/2007)

“It is highly unlikely that the NFIP will generate sufficient revenues to repay funds borrowed from the Treasury....Over the last 15 years we have reported...concerns related to the sufficiency of the program’s financial resources, compliance with mandatory purchase requirements, the costly impact of repetitive loss properties, and most recently

our concerns about FEMA's billion dollar flood map modernization efforts and management and oversight of the NFIP...For these reasons, we are today designating a new high-risk area, the National Flood Insurance Program." ([Congressional Testimony of David Walker, Comptroller General of the United States: GAO's High-Risk Program – March 15, 2006](#))

COST

According to the Congressional Budget Office, H.R. 3121 would increase direct spending by \$725 million in 2009 and increase discretionary spending by approximately \$1.8 billion during the 2008-2012 period. *Note – Passage of the rule would strike the provision increasing borrowing authority, which would reduce the overall cost of the bill.*

[CBO Estimate – H.R. 3121, Flood Insurance Reform and Modernization Act of 2007](#)

AMENDMENTS

(Below are the summaries of the amendments that were made in order by the Rules Committee and may be offered on the floor of the House of Representatives)

1) Rep. Barney Frank (D-MA): (Manager's Amendment) (REVISED) The manager's amendment does the following: 1) requires that homes insured by wind/water policies comply with existing model building codes from the International Code Council pursuant to request from the National Association of Home Builders; 2) requires that specific technologies be used for mapping floodplains (such as geospatial technologies); 3) adds a professional mapping association to the Mapping Advisory Council; 4) prohibits FEMA from enforcing a penalties assessed against individual condo owners where the condo complex is underinsured regarding flood coverage; 5) directs FEMA to develop a plan to verify that the recipients of Homeowner Assistance Grants in Mississippi and Road Home Grants in Louisiana, funded by HUD Community Development Block Grants, maintain flood insurance on their properties as required as a condition of the grants; and 6) codifies recommendations in a recently released GAO report (GAO 07-1078) with respect to the National Flood Insurance Program's payments to insurance companies for their administrative costs without requiring the companies to report their costs or to comply with the existing audit requirements.

2) Reps. Cardoza (D-CA) / Ross (D-AR) / Reyes (D-TX): (REVISED) This amendment says that people forced to purchase flood insurance as a result of the new map who have lived in an area where the levees were previously certified, and have now been decertified, will receive a grace period of 5 years in which they will be entitled to a 50% reduction in their flood insurance premium while the levees are being recertified.

3) Rep. Castor (D-FL): This amendment commissions a study by the GAO to examine the effect of the new multiperil policy on state insurance programs.

4) Rep. Castor (D-FL): This amendment clarifies some of the priorities for wind risk criteria generation.

5) Reps. Blumenauer (D-OR) / Rep. Welch (D-VT) / Rep. Gilchrest (R-MD): The amendment would require FEMA, when updating and maintaining flood maps, to take into consideration the impacts of global warming, the potential future impacts of global climate change-related weather events, and use the best available climate science in assessing flood and storm risks.

6) Murphy, Patrick (D-PA) / Arcuri (D-NY): (REVISED) This amendment would create the position of National Flood Insurance Advocate in FEMA which would: (1) transmit a comprehensive report to Congress about the major problems facing the Flood Insurance Program; and (2) report to Congress about the feasibility and effectiveness of establishing an Office of the Flood Insurance Advocate, headed by the National Flood Insurance Advocate, to assist insureds in resolving problems with FEMA.

7) Rep. Gene Taylor (D-MS): This amendment allows multiple peril and flood insurance coverage of apartment buildings up to the total of the number of dwelling units times the maximum coverage limit per residential unit.

8) Rep. Gene Taylor (D-MS): (REVISED) The amendment prohibits a company that sells and services flood insurance policies from including language in its own windstorm policies that would exclude coverage of wind damage solely because flooding also contributed to the damage. The amendment also requires the contract between an insurance company and NFIP to state that the company has a fiduciary responsibility to federal taxpayers and will act in the best interests of NFIP.

9) Rep. Costello (D-IL): The amendment provides that no changes in flood insurance status can go into effect until the remapping process is completed for the entire district of the Corps of Engineers affected by that map.

10) Rep. Gene Green (D-TX): (REVISED) This amendment provides a five year phase-in of flood insurance premiums for low-income homeowners or renters whose primary residence is placed within a flood plain through an updating of the flood insurance program maps if the value of the home does not exceed 75% of the state median home value.

11) Reps. Berry (D-AR) / Ross (D-AR) / Hare (D-IL) / Emerson (R-MO) / Hulshof (R-MO) / Costello (D-IL): The amendment authorizes the Director of FEMA to include a note on flood insurance rate maps identifying 100-year and 500-year certified levees and encouraging property owners to evaluate their risk of flooding. The amendment also clarifies that the note shall not be considered a legal requirement of participation in the national flood insurance program.

12) Rep. Walz (D-MN): This amendment adds to the flood map modernization provisions of H.R. 3121 a requirement that FEMA map areas in the 100-year floodplain that would flood if not for a "levee, dam, or other man-made structure."

13) Reps. Stark (D-CA) / Burton (R-IN): (REVISED) This amendment requires written notification by first class mail to each property owner affected by a proposed change in flood elevations, prior to the 90-day appeal period. Notification would include an explanation of the appeal process and contact information for responsible officials.

Self-Enacting Amendment that will be considered approved upon adoption of the Rule

This amendment strikes the increase in borrowing authority available to the National Flood Insurance Program ("NFIP") in order to make the bill compliant with PAYGO. The bill increases the NFIP's borrowing authority by \$725 million.

STAFF CONTACT

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